

# Position paper for policy recommendations regarding changes and waiver request

## Principles

In keeping with the spirit of the QAP, staff would like to hold developers accountable for commitments made to the Agency during the Low Income Housing Tax Credit funding round. Unfortunately, situations occur that prevent a project from being completed as promised and staff is prepared to handle those cases as they arise. **Note:** Be advised exceptions to the QAP are not routinely granted.

## Policy

1. Exceptions to QAP/Application requirements will be reviewed by staff on a case by case basis with recommendations being forwarded to the LHFA Board of Commissioners.
2. A recurrence log by infraction and developer will be maintained by staff for consideration of granting waivers.
3. Developer must clearly state why a waiver is necessary and provide the Agency with all available documentation to support position.
4. Waiver request must be made prior to Carryover Allocation.
5. In the event of a major material change, such as a site change, the applicant must clearly demonstrate that the relocation of the project promotes public good, such as retention of project based vouchers, has major political and public support, is in an area that has dire need for affordable housing and that has not previously been adequately served.
6. Staff will review and evaluate request to determine if points are affected and how such change of points would affect the final scoring and reservation of credits.
7. If waiver request is due to NIMBYism, developer must demonstrate that they have exhausted all political and legal avenues to resolve the issue.
8. Developers must receive prior written approval from the Louisiana Housing Finance Agency for any changes from the representations of the original tax credit application. Failure to receive prior approval may result in a one year suspension from participation in the program.

9. With few exceptions, all requests for changes to a project must be sent directly to staff first for review and approval. In the event the proposed change is denied, the applicant then may go to the Board for appeal.

## Penalties

1. In the event the waiver request was not submitted in a timely fashion and cannot be changed to comply with the QAP; the Agency shall reduce credits by the value of the lost item, as long as the project is still feasible and viable.
2. The developer will be charged an agency change order fee, for consideration and process of all waiver requests (subject to legislative approval and dependent on seriousness of violation) to include forfeiture of a portion of the developer fee.
3. Deduct points tied to waiver request and recalculate points and place project in proper new rank order.
4. Institute deduction of points for “prior” non-compliance and waiver requests for future applications.
5. Monetary sanctions may be considered along with restricting participation from the QAP process for a period of time (depending upon seriousness of infraction and developer’s history with the Agency) for up to 2 years.
6. Should the developer refuse to comply with the terms and conditions as agreed to by the Board of Commissioners and QAP (for example failure to meet PSH set-aside requirements during lease-up), the 8609’s may be withheld resulting in recapture of the tax credits.